

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANGELO LOMANTO,
Petitioner

-v-

ANTHONIA ADUKE AGBELUSI,
Respondent.

22-CV-7349 (JPO)

ORDER

J. PAUL OETKEN, District Judge:

As previously ordered, the parties shall file their proposed findings of fact and conclusions of law on or before April 20, 2023.

In addition to any issues the parties wish to address in their submissions, they are directed to include any pertinent authorities on the following issues:

1. For purposes of applying the one-year period applicable to the “now settled” defense of Article 12 of the Hague Convention,¹ what is the effect, if any, of:
 - a. Representations by the taking parent after an initial wrongful retention that a child would be returned — i.e., whether the one-year period re-starts, as distinguished from being equitably tolled;
 - b. Rule 6 of the Federal Rules of Civil Procedure.
2. Whether and under what circumstances harm by one parent to the other parent alone can be considered “grave risk” to a child.

¹ Article 12 of the Hague convention states that a child who has been wrongfully removed or retained “shall” be returned where “at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of **less than one year has elapsed** from the date of the wrongful removal or retention,” but that where such proceedings were commenced “**after the expiration of the period of one year**” referred to in the previous clause, a court may elect not to return the child if he or she is shown to be “settled” in the new environment.

The above issues may be addressed either in the parties' proposed conclusions of law or in separate post-trial letter briefs, provided that any such filings shall be made by April 20, 2023.

SO ORDERED.

Dated: April 5, 2023
New York, New York



J. PAUL OETKEN
United States District Judge